

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 543 of 2009

The Commissioner (Appeal) of Central
Excise and Service Tax, RanchiAppellant
--Versus--
Information Commissioner, Central
Information Commission, New Delhi & Anr..... Respondents

**CORAM : HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MRS. JUSTICE JAYA ROY**

For the Appellant : Mr.Ratnesh Kumar, Advocate
For the Respondents : Mr. K.P. Choudhury

Order No.13

Dated 11th July, 2011

Heard the counsel for the parties.

2. The grievance of the appellant is that in a proceeding under the Right To Information Act, the authorities could not have directed for re-constitution of the records and then give the information to the applicant.

3. It is not in dispute that the petitioner-appellant originally by moving the application under the Right To Information Act and Rules, sought information and in appeal it was ordered that record which according to appellant was not traceable be reconstituted and then information be given. It may be true that the record may have traveled from Kolkata to Patna and then to Jharkhand and it is also true that record is pertaining to the files of the year 1992. But, in a case where the information is sought from a department and the department is required to keep the record and was not entitled to weed-out that part of the record from which the information was sought, then the authority certainly can direct to give the information to the applicant, if he is otherwise found entitled to the relief under the Act and Rules referred

above and in that process if record is required to be reconstituted then, that is certainly within the jurisdiction of the authorities under the Right To Information Act to direct the office to reconstitute the record, which process is also a step taken in furnishing the information to the applicant. Otherwise also the appellant should not have raised any grievance against such direction because it was a duty of the appellant to immediately make effort for reconstitution of the record when they came to know that record is not lying with them and for that purpose, they could have taken help even from the applicant by obtaining certain information or also the requisite documents from the party to whom the original record was related to.

4. Be that as it may be, the direction to reconstitute the record is only a one step in furtherance of providing the information to the applicant under the Right To Information Act.

5. Therefore, the learned Single Judge was right in dismissing the writ petition preferred by the appellant. We do not find any illegality in the said order, and hence, we do not find any merit in this L.P.A., which is accordingly, dismissed.

6. It is made clear that the respondent should also co-operate with the department in getting the record reconstituted, and therefore, in that process, certainly some more time may be consumed , but it should be a reasonable time.

(Prakash Tatia, A.C.J.)

(Jaya Roy, J.)